

E. Local Plan Implementation Process

1. Regulatory Implementation

Upon approval of the HMP, and issuance of citywide permits from the wildlife agencies, the City will use its land-use regulatory authority to fully implement the provisions of the Plan. Regulatory implementation shall consist of the following actions:

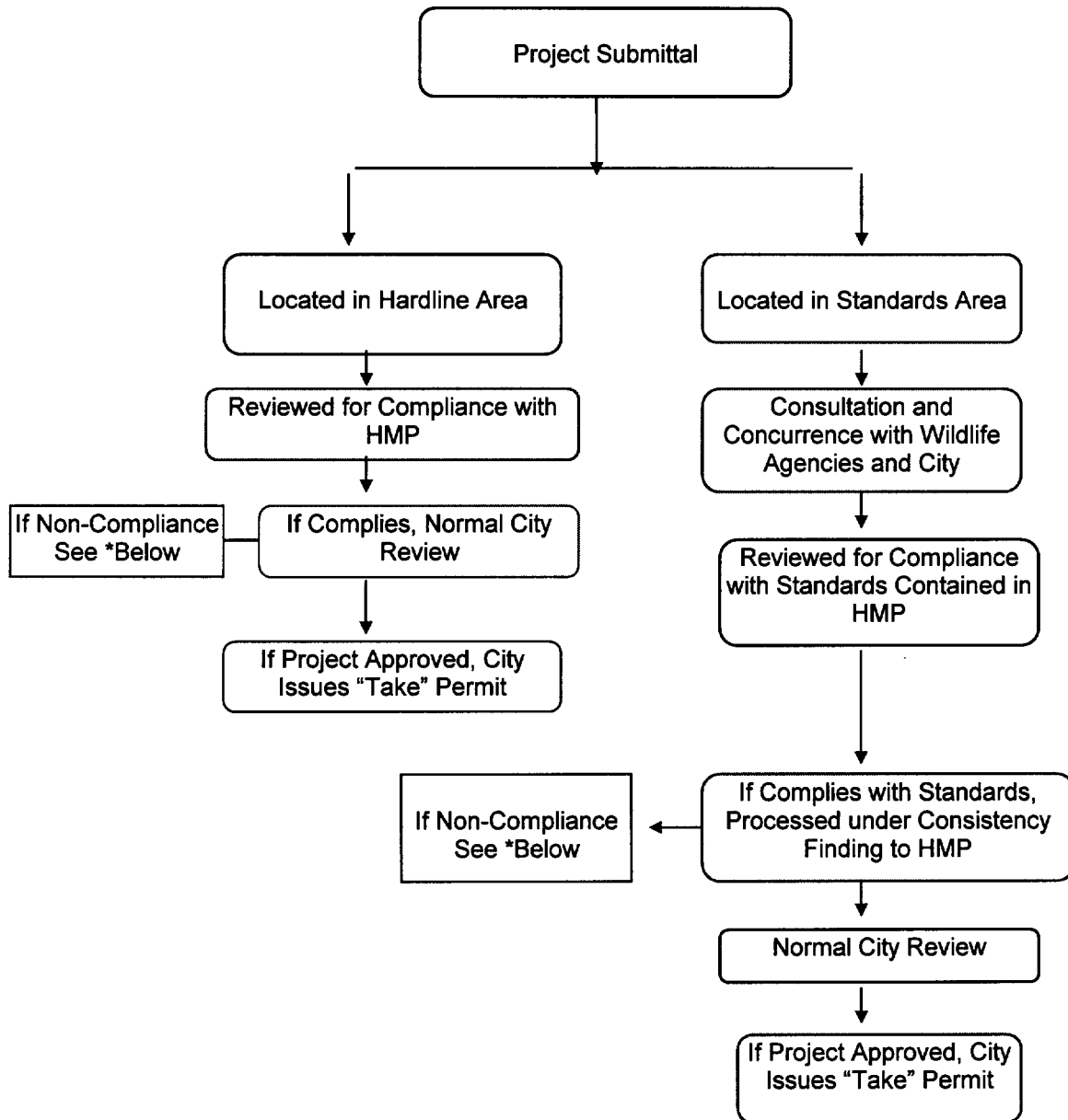
- A. Immediately upon approval of the HMP, the City will adopt an urgency ordinance as permitted by California Government Code Section 65858, to require compliance with the plan while permanent regulatory measures are being drafted and approved.
- B. The City will amend the Open Space and Conservation Element of the General Plan to incorporate the HMP by reference. Both the Open Space Map contained in the Element, as well as the Land Use Map contained in the Land Use Element will be amended to show the Existing and Proposed Hardline Preserve Areas as Open Space. If necessary or applicable, existing goals, objectives or policies contained in the Element may be amended to strengthen the City position regarding implementation of the HMP. (See Appendix D for recommended amendment wording.)
- C. The City's Open Space Ordinance (Section 21.53.230, Carlsbad Municipal Code) will be amended to add conserved habitat lands, as identified in the HMP, as undevelopable open space lands. (See Appendix D for recommended amendment wording.)
- D. The Carlsbad Municipal Code will be amended by the addition of a new section to require lands located within the standards areas of the HMP to comply with the specific conservation standards contained in Section D of the HMP. (See Appendix D for recommended wording.)
- E. The City's Growth Management Plan contains a requirement that an additional 15% of the otherwise developable land within a LFMZ be set aside for open space purposes. Priorities for use of the 15% standard are contained in the City's Open Space and Conservation Resource Management Plan. The City will amend this Plan to make the conservation of habitat as identified in the HMP a priority use for the 15% standard in the LFMZs where it is appropriate. (See Appendix D for an example.)
- F. The City will comply with all terms and conditions of the IA with USFWS and CDFG.

2. Project Processing Implementation

Because the City is establishing a substantial regulatory framework (i.e., ordinance amendments), project processing will not need to deviate from the normal City process in most instances.

The one major difference is for projects which are located in standards areas. These projects will require additional consultation with the City and the wildlife agencies to determine whether the proposed project complies with the standards as discussed in Section D of the HMP and a consistency finding with the HMP before they can proceed through the normal City review process. Figure 24 shows the HMP compliance process and the difference between proposed projects located within hardline areas vs. standards areas. The details for processing a project in a standards area are provided on Page E-3 and will require coordination with and concurrence by U. S. Fish and Wildlife Service and the California Department of Fish and Game regarding compliance with the standards.

FIGURE 30 HMP COMPLIANCE PROCESS



- Non-Compliance Processing Alternatives Include:
 - 1) Redesign Project
 - 2) Submit for Plan Amendment to HMP

3. Plan Amendments

Amendments to the HMP may be necessary over time, including:

- Minor Changes to the maps showing boundaries of the Plan area or existing or proposed hardline areas;
- Conversion of standards areas to hardline areas; and
- Possible future additions to the list of covered species.

To facilitate the processing of such changes, the Plan amendment process described below will apply.

Minor Amendments

A. Equivalency Findings

Minor changes to HMP maps to show actual, precise boundaries of conserved habitat, and which do not reduce the acreage or quality of the habitat, will be treated as automatic amendments under an Equivalency Finding. The City will provide written notice of the Equivalency Findings to USFWS and CDFG, and unless USFWS and CDFG object within 30 days after notification, the change will be considered approved. If objections are raised, the City will meet with the agencies to resolve the issue; and written approval of the resulting change will be required. Minor boundary changes will also not require an amendment to the General Plan Open Space and Conservation Element.

B. Consistency Findings

The habitat conservation planning for any properties located in the standards areas of the HMP and the conversion of these properties to proposed hardline areas, shall be processed as a Consistency Finding.

Some City projects are addressed in this Plan by means of proposed hardlines. These projects are automatically permitted with approval of the Plan. City projects not shown as proposed hardlines shall also be processed as a Consistency Finding.

Projects proposed within the Standards areas would be required to demonstrate how they comply with the standards before they could be approved by the City. To begin the consistency process, the property owner(s) or project proponent would first refer to the zone-level conservation requirements described in Section D of the Plan. After determining zone-level requirements, the project proponent would contact the City to arrange for informal project review and site visits. The review and site visits would be conducted with the assistance of a qualified biologist retained by the City and paid for by the project proponent. Specific conservation and mitigation measures would then be proposed by the project proponent, taking into account zone-level and species-specific requirements.

All projects within the Standards Areas will be required to submit a project description and maps that identify:

1. The project's location in relationship to existing conserved habitat within the City;
2. The habitat types and any known occurrence of HMP Species and other species of concern in and adjacent to the project area;
3. The expected location, type, and intensity of habitat impacts in the project area;

4. Any open space requirement identified for the area under the General Plan; and
5. Specific conservation measures to ensure compliance with zone-level and species-specific standards.

When impacts and measures have been identified, the project proponent will submit the documentation to City's Planning Department for review. The consulting biologist also will be part of this review. If the Planning Director determines that the measures are consistent with the HMP and the conservation standards, the City will consult with the wildlife agencies and begin CEQA review. If the measures are determined to be inconsistent with the HMP and the standards, a revised proposal will be required. If wildlife agencies concur that the measures are consistent, the project shall be considered consistent with the HMP. Following public review under CEQA, the City will formally consider the consistency of the project with the HMP in its findings regarding the project. Upon approval of the project by the City Council, and conditioned on implementation of the approved HMP measures for the project, the City's authorization for take would apply to the project.

For City projects not proposed as hardline areas, the City shall review the project for compliance with measures to reduce impacts to HMP species (Table 9 contained in Section D) and mitigation requirements at the City mitigation bank (Lake Calavera). If the City project complies, it shall be determined to be consistent with the HMP and a Consistency Finding shall be made.

C. Major Amendments

Removal of lands from conserved areas, or reconfiguration of hardline areas resulting in a decrease of acreage or quality of habitat, shall constitute a Major Amendment to the HMP. Once the subregional MHCP is completed and/or as additional biological analysis and information becomes available, additions to the Covered Species list shall also require a Major Amendment to the Plan. Major Amendments shall require environmental review and will be subject to the amendment process described below.

1. The City will initiate a pre-amendment review with the USFWS and CDFG. In this review, the City will present a report to USFWS and CDFG that identifies the affected species; identifies the level of take authorization being sought; and discusses how existing HMP measures provide for the species. The purpose of the review meeting will be to determine whether adequate information is available to consider approval of the change.
2. Within 90 days of the review meeting or receipt of the report (whichever occurs later), the agencies will notify the City that they:
 - Have sufficient information to act on the proposed change;
 - Have specific items of additional information necessary to properly evaluate the proposed change; or
 - Have determined that additional data collection and analysis is necessary for adequate evaluation of the impacts of the proposed change.
3. Where specific items of additional information are requested, the City will provide the information to the extent it is reasonably available or can be obtained at reasonable costs within 90 days. Where additional data collection and analysis are requested, the agencies will provide a detailed explanation of what is required and why.

4. Once the additional information is received, the agencies shall notify the City within 30 days whether the change is approved. If approved, the change shall constitute an amendment of the Plan.

4. Coordination with Regional Conservation Efforts

As other subarea and subregional Plans are prepared and implemented under the NCCP program in San Diego County, the following measures will be implemented:

- A. To the extent reasonable and feasible, the City will coordinate establishment and management of the preserve system within Carlsbad with adjacent jurisdictions;
- B. As described in detail in Section D, the City has identified and will cause to be conveyed offsite mitigation lands for the FLCA HCP in locations that contribute to regional significant biological resources;
- C. The City will continue to participate in the MHCP and NCCP planning process;
- D. The City will ensure that implementation of the HMP does not preclude conservation of regionally significant biological resources; and
- E. The City will consider participation in any regional efforts to secure funding for habitat acquisitions and management from public and private sources. The City's participation in any regional funding effort or proposal will be subject to the limitations stated in the Implementation Agreement.

5. Additional Implementation Measures

In order to further Plan implementation, the City will accomplish the following:

- A. Record keeping. Record keeping will consist of maintaining current records of progress made toward meeting citywide conservation goals; actual conserved habitat within the preserve network, habitat removed by HMP covered projects; and incidental taking of gnatcatchers and any other listed species. The City will maintain its Geographic Information System (GIS) database of biological resources, updating it annually and providing the agencies with the update information. This information shall be provided both in a locational (spatial) format as well as a data (tabular) format.
- B. Annual review. An annual meeting will be held between the City, USFWS and CDFG to monitor HMP implementation, discuss pertinent issues, and coordinate activities relating to overall preserve system monitoring, maintenance and planning. At this annual meeting, the City will report on projects approved during the preceding year and progress made toward meeting HMP conservation goals. Items to be considered in the review include, but are not limited to, any and all contributions toward the preservation of habitat lands through mitigation land donations, land acquisitions, and management activities undertaken or proposed on habitat lands. The City will not be subject to any annual, quantitative habitat preservation requirement, given the uncertainties created by economic and land development fluctuations, which may dictate schedules for capital improvement projects. Should the agencies determine that overall progress is inconsistent with the HMP, they will work cooperatively with

the City to assure that satisfactory overall progress is achieved as quickly as possible. Actions to improve progress could include redirected conservation, management, and acquisition activities, provided that the changes are within the scope of the approved HMP.

Preserve Management Plan. The City will prepare a Preserve Management Plan, which addresses in detail implementation of the recommendations contained in Section F of the HMP (Preserve Management). The Plan shall be completed in two phases as follows. Phase 1 shall be completed within one year of approval of the HMP and shall include at a minimum:

1. A detailed fire management plan for preserve areas including permissible brush clearance and fuel reduction zones;
2. Standards for recreational use of the preserve system and mechanisms to ensure the standards are enforced;
3. The timing of ongoing status reports for review by the wildlife agencies;
4. Identify and prioritize areas for exotic species control.

Phase 2 shall be completed within three years of approval of the HMP and shall include:

1. Identify and prioritize preserve areas needing erosion control;
 2. A detailed plan to implement zone-specific preserve management recommendations. This plan shall also review the feasibility of providing undercrossings and/or bridges in certain zones where major roads cross linkage areas. It is recognized that this could add to the cost of these public improvements and the effectiveness of an undercrossing or bridge needs to be weighed against the additional costs.
 3. The proposed entity that will provide permanent, long-term management of the preserve system and the need for a preserve manager.
- C. Educational Program. Once the HMP is approved by the Wildlife Agencies, the City shall institute a proactive educational program to inform current and new citizens, schools, the business community, and environmental groups about the Plan, including the importance of future management and ongoing maintenance of the preserve system.

6. Financing

It is not anticipated that the HMP will require any public acquisition of privately owned habitat lands within the City unless the City chooses to acquire land or mitigation credits to provide additional mitigation for public facility projects. Funding associated with implementation of the Plan will be necessary and consists of the following components:

- A. MHCP Core Area Participation. The City has agreed to effectuate the conservation and conveyance of 307.6 acres of land in the MHCP core area to satisfy its participation in this area and fulfill the responsibilities associated with the Fieldstone HCP. Funding for the land acquisition required for the City's participation include the following:
1. Bank of America obligation - As part of the Fieldstone HCP, the Bank of America is obligated to provide \$1 million in funding at the time they develop the northwest portion of the Villages of La Costa. They have agreed to provide the funds at this time to be used for acquisition in the MHCP core area.

2. Fieldstone HCP reimbursement to the City - The Fieldstone HCP required Bank of America to reimburse the City \$150,000 for work on the HCP. The City is proposing to use these funds for acquisition in the core area.
3. Rancho Carrillo Mitigation Funds - The developers of the Rancho Carrillo Master Plan were required to pay \$500,000 for future offsite acquisition to mitigate for impacts to habitat associated with their project. Both the wildlife agencies and the City have agreed to use these funds for acquisition in the MHCP core area.
4. Municipal Golf Course Mitigation - The City has agreed to acquire 51.6 acres of land in the MHCP core to provide for a portion of the mitigation requirements for construction of its municipal golf course.
5. Habitat In Lieu Mitigation - Remaining funding needed to obtain a total of 307.6 acres in the MHCP core area could be generated through the establishment of a Habitat In Lieu Mitigation Fee within the City of Carlsbad. This fee can be justified for two reasons:
 - ◆ In the biological analyses of the Gnatcatcher and other species, the wildlife agencies have indicated that conservation of an additional 200 to 300 acres of high quality habitat is necessary for the City to obtain approval of the HMP. This additional conservation could have been achieved through a higher level of onsite preservation on properties within Carlsbad. However, the opportunities for accomplishing this objective in Carlsbad are limited by many factors, including variations in habitat quality, existing take agreements, high land costs, and public facilities needs. For this reason, the City and the wildlife agencies agreed that the additional 200 to 300 acres of high quality habitat could be conserved outside of Carlsbad, within an area that has been identified as a Core Area for Gnatcatchers and a critical linkage between conserved habitat areas in Carlsbad and adjacent jurisdictions. The City will incur substantial costs to conserve 296 acres within the Core Area. Without the acquisition of this additional acreage, it is unlikely that the HMP would have been approved.
 - ◆ The City has incurred significant costs in preparing and approving the HMP. These costs are conservatively estimated to be in excess of \$750,000 in consultant costs and an unquantified amount in staff time. A portion of this cost is of benefit to the citizens generally, and it is reasonable for the City to absorb that portion of the costs. However, approval of the HMP also provides a benefit to persons who own or develop vacant land by addressing in a comprehensive fashion issues related to endangered/threatened species and wildlife. If the City had not prepared the HMP, individual developers would have been required to obtain their own federal and state permits to take species listed as endangered or threatened. Without a comprehensive plan such as the HMP, the permitting process would likely be significantly more expensive, lengthy, and uncertain. In addition, it would have been necessary for developers to address impacts to species and habitats in conformance with the California Environmental Quality Act (CEQA). Without the HMP, it would be more difficult to deal with the cumulative impacts to wildlife.

Although the exact amount of the fee has not yet been approved by the City Council, the necessary studies and analysis of the fee have been conducted. In order to completely fund the acquisition and maintenance of the previously described land in the MHCP core area, which has not already been funded through other agreements, the per-acre in-lieu mitigation fee is estimated to be \$800 for agriculture, disturbed and eucalyptus (Group F Habitat), \$4,000 for grassland (Group E Habitat) and \$8,000 for coastal sage scrub (unoccupied by gnatcatcher) and chaparral (Group D Habitat).

The fee will be administered according to the following rules:

1. The fee will be required in addition to any mitigation required of a project by the HMP or CEQA.
 2. The fee will be calculated on a per acre basis according to the mitigation ratios contained Table 11, (page D-95) for habitat impacted and not conserved onsite. Only Habitat Groups D, E and F as shown in Table 11 shall be eligible to pay the fee for impacted habitat. Groups A, B and C shall be subject to offsite mitigation for impacted habitats according to the ratios contained in Table 11.
 3. Habitat Group F on Table 11 (disturbed lands, agriculture lands, and eucalyptus) Although it will be necessary to conduct the fee study required by AB 1600, based on staff's initial analysis, staff anticipates the fee for impacting disturbed habitat/agriculture land should be set at no more than \$500 per acre.
 4. The fee will not be assessed against any parcel that has been graded pursuant to a valid grading permit within the past five (5) years.
 5. The fee will not be required where at least 67% of the habitat on a property or project is being conserved.
 6. The fee will be calculated and collected at issuance of Grading Permit.
- B. Preparation of a Preserve Management Plan. As described in Section E of the HMP, the City will prepare a two-phased Plan to provide detailed implementation measures regarding management of the preserve system. The cost of the Plan is estimated to be \$50,000 and be completed within one year of permit issuance. The cost of phase two of the Plan is also estimated to be \$50,000, and will be completed within three years. California Department of Fish and Game has approved a grant to the city in the amount of \$60,000 to assist in the preparation of both phases of the management plan.
- C. Education Program. After approval of the HMP, funds may need to be budgeted from the General Fund to support a proactive education program.
- D. Habitat management. Habitat management and monitoring will be provided primarily by the fee owner of the conserved habitat (e.g., the City will be responsible for management of City-owned lands in the preserve system; owners of conservation banks will be responsible for management of those lands; owners of habitat conserved in conjunction with development will manage those areas). The specifics regarding habitat management are contained in Section F of the HMP. It is estimated that management of the preserve lands will not exceed \$75.00 per acre per year over the life of the HMP. The Preserve Management Plan may recommend one public entity to maintain and manage the entire citywide preserve system.
- E. Program administration. Administrative and technical tasks for program administration include oversight of habitat management and monitoring, review and processing of public and private development projects for compliance with the HMP resources, coordination of public access and passive recreational use of the preserve system, and tracking of developed and conserved habitat and reporting to the wildlife agencies on the status of the Plan. The responsibilities of program administration and clerical support could be combined with those of the City's open space and trails program. If determined to be necessary, a biologist could be retained under a consulting agreement with a qualified firm. It is estimated that the annual cost of program administration would not exceed \$50,000 per year. Funds for program administration could be made part of the Habitat Take Permit Fee.